

W5YI

Nation's Oldest Ham Radio Newsletter

REPORT

Up to the minute news from the world of amateur radio, personal computing and emerging electronics. While no guarantee is made, information is from sources we believe to be reliable. May be reproduced providing credit is given to The W5YI Report.

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New Zealand Seeks to Suppress HF Code Requirement

Age distribution information shows the average age of amateurs in New Zealand is around 60, and there is only a small minority of young amateurs. Policies that are generally supported by older amateurs, but generally rejected by the young are not likely to be ones for productive future development. In New Zealand, some 2% of all amateurs are aged 25 or less, yet the number of computer enthusiasts aged 25 or less is likely to exceed the total number of amateurs for all ages and by many times. Future recruitment is more likely to be linked to technology and computing interests than a natural interest using CW. ...The radio industry places little or no importance on manual telegraphy. ...there is a very great difference between lobbying for repeal of a regulation and having any objection to individual choice to the use of CW. There is no intention to oppose use of CW in amateur bands. There is a future for CW in the amateur service, fostered by interest groups and without regulatory shelter. *From: Aug. 1993 submission to New Zealand Ministry of Commerce.*

The Government of New Zealand has made a decision to actively seek the suppression of RR 2735 at WRC-95. That's the regulation that requires Morse code proficiency when amateur radio operators transmit on spectrum below 30 MHz. The ITU's 1995 World Radio Conference will be held between October 23 and November 17, 1995 in Geneva and will be attended by telecommunications delegations from around the world. While the agenda of WRC-95 is almost exclusively devoted to the Mobile-Satellite frequency bands and the Space Services, there is also a vehicle for other non-related issues to be considered. WRC's are now held every two years.

The VGE (Voluntary Group of Experts) is an assembly of experts volunteered by their administrations to look at simplifying the international radio regulations. The VGE is not a part of any delegation. This advisory group has now produced a comprehensive report in three volumes.

The first item on the WRC-95 agenda is "To review the final report of the VGE and to consider

related proposals from administrations, in order to undertake as appropriate a revision of the radio regulations and to provide a timetable for the implementation of outstanding recommended actions." New Zealand will lead an initiative that will seek support to eliminate RR 2735 from the international radio regulations.

The New Zealand Government believes the next regulation (RR 2736) contains the minimum required amateur radio operator qualification guidelines and has the added advantage of permitting each country to establish their own operator requirements.

RR 2736 is only one sentence long: "Administrations shall take such measures as they judge necessary to verify the operational and technical qualifications of any person wishing to operate the apparatus of an amateur station."

New Zealand amateurs found about the decision of their Ministry of Commerce from a bulletin broadcast by NZART over amateur radio. The New Zealand Association of Radio Transmitters is

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the national amateur radio society of New Zealand. A letter was read from the Ministry of Commerce during the broadcast that had been addressed to the President of NZART. The letter was made available to us by ORACLE's Dave Walker, ZL2BHE, who also received a copy of the MOC letter to NZART. Here is some of the points made in the letter: (QUOTE)

"At the present time RR 2735 effectively requires all administrations to verify a competence in Morse Code before the issue of an amateur license to operate in the frequency bands below 30 MHz. The Ministry has now considered this provision quite carefully and has concluded that it is no longer appropriate as a Treaty obligation for Government.

"The licensing provisions of RR 2736 provide that 'Administrations shall take such measures as they judge necessary to verify the operational and technical qualifications of any person wishing to operate the apparatus of an amateur station.' There is clearly ample scope under this regulation for an administration to require competency in Morse or not as deemed appropriate. RR 2735 adds a specific obligation in regard to Morse Code, and in doing so limits national freedom but without providing any greater benefits.

"The Ministry has therefore formed a view that it is appropriate to propose the deletion of RR 2735 at the forthcoming WRC-95 and will now work to this end. Part of this work includes, as is usual, the prior discussion of draft proposals with other administrations and this will be undertaken in the first instance in conjunction with the Conference Preparatory Meeting in Geneva next week." *[That meeting took place in late March and the New Zealand delegation actively promoted the support of other administrations in suppressing RR 2735.]*

"As such discussions continue over the next few months the Ministry will refine any New Zealand proposals prior to the formal agreement by the Government of the delegation brief. Clearly interested parties will be kept informed of the overall process.

"Turning to what national licensing policies might be adopted, should the proposal to delete RR 2735 succeed, I can advise there is no intention to change our present licensing policies or Morse code requirement. It is considered important that the present reciprocal license arrangements are not unduly disturbed and this dictates a national continuation of the Morse code requirement in the foreseeable future.

"However, the deletion of RR 2735 will allow any future changes to be adopted by administrations as they see fit, and at an appropriate time, rather than awaiting for quite some years before the item is able to be placed on an ITU WRC conference agenda. The international regulations will thus be flexible to enable

administrations to respond to the needs of their national circumstances, rather than having national requirements unnecessarily limited by the International regulations." (signed) I. R. Hutchings, Manager, Radio Spectrum Policy (END QUOTE)

It is not up to the VGE to decide on RR 2735. Basically the VGE have finished their work. The formal process is for administrations to study the report and support it or otherwise. Administrations can also propose changes to the VGE Report as agenda item 1 of WRC-95. Only one administration needs to propose an addition to the VGE Report and New Zealand has signalled their intention to do just that..

It is up to the conference (by agreement between participating administrations) to make decisions. It is New Zealand's view that RR 2735 should be suppressed since the VGE is already recommending deletion of RR 2800. That Article 34 regulation requires Experimental Service station radiotelegraph operators to prove their "...ability to transmit by hand and to receive by ear, texts in Morse code signals."

This is the same wording that also appears in Article 32 RR 2735 covering the amateur service. The VGE wants RR 2800 eliminated and gave: "Reasons: Purpose is better covered by No. 2801." International RR 2801 requires administrations to "...take such measures as they judge necessary to verify the operational and technical qualifications of any person wishing to operate the apparatus of an experimental station." New Zealand believes RR 2801 reads basically the same as RR 2736.

This is all very interesting since the International Amateur Radio Union (IARU) took the position at a meeting held in Singapore last fall that there should be no change to RR 2735. This decision was made based on the work of the IARU CW Ad Hoc Committee. This committee was chaired by Fred Johnson, ZL2AMJ, an IARU Region 3 Director. Dave Sumner, K1ZZ, IARU Secretariat represented Region 2, John Allaway, G3FKM, IARU Region 1.

Morse Code and the IARU

The IARU CW Ad Hoc Committee report (page 19) mentioned that changing the international radio regulations "...is fraught with problems - even for what many delegations would consider to be a 'minor topic'" Cited was a "loss of control" which could result in "...totally undesirable outcomes." The report did not elaborate but we assume that it means that without a code requirement, the HF bands could quickly become saturated. The committee concluded that "...the best means of ensuring that all amateurs can share that international resource, the HF spectrum, can intercommunicate without regard to

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equipment or language barriers [was] for the status quo to continue."

The December 1994 report, written by ZL2AMJ said "There is always a fear that a well-meaning, but improperly briefed delegation at a conference may propose an unexpected change to a Regulation. This situation must be 'lived with' by carefully monitoring agenda items and by the support and protection from delegations known to be supportive and friendly to amateur radio. ...The topic must first be put on the agenda of an appropriate conference. This in itself can be a tedious and laborious time-consuming lobbying task. The time for this step alone could take many years if not a decade." Ironically, the "improperly briefed delegation" ZL2AMJ referred to turned out to be from his own country. And the deletion of RR 2735 will be considered within six months, not years or decades.

The New Zealand Government was repeatedly "briefed" at great length by ORACLE, an acronym for the Organization Requesting Alternatives by Code-Less Examinations, Inc. A stated objective in their Constitution was to lobby for a change in RR 2735 and for alternative tests to Morse code. ORACLE made several written presentations to New Zealand's National Radio Policy manager and their Minister of Communications.

Their position was that RR 2735 existed "...to deliberately limit progress in Amateur Radio." They said it was "...time for a change. ...This requires the international regulation to be repealed so each examination syllabus can be expanded to provide for suitable parallel choices...."

ORACLE added, "When regulatory change to Morse testing does occur, it will end a fabricated barrier to progress within amateur radio. But similar to views on apartheid, it will take some time for balance to appear at grass roots level, and some amateurs may never accept the deregulated scenario."

LAUNCH FAILURE DOOMS AMATEUR SATELLITES

Two amateur radio satellites were lost on March 28th when their launch vehicle, a Russian START rocket, based on the SS-25 intercontinental ballistic missile exploded. Four satellites were aboard. The two Russian satellites were for studying meteorite particles. The other two were amateur radio satellites, an Israeli-built GURWIN-1 Techsat and the Mexican UNAMSAT.

The launch was to have demonstrated that refurbished military rockets could be used for civilian purposes. The SS-25's, which are subject to arms reduction, were due to be scrapped within two to three years of the treaty's ratification. It was believed that

the converted ICBMs were capable of placing light satellites in orbit at altitudes of up to 1000 km. The rocket for this project was built by the same designers who originally designed the military version.

The launch went smoothly until the time came for the 5th stage to fire. Then the telemetry and signals were lost. Russian flights appear to be downlink-only without any inflight command facility so there was no way to attempt manual command of the fifth stage. The Reuters News Agency said the rocket, which was launched from Russia's Plesetsk Cosmodrome, came down in the Russian Far East, in the Sea of Okhotsk.

Both amateur satellites were designed for packet radio repeater use. GURWIN-1 Techsat was built at the Technion-Israel Institute of Technology in Haifa as a 9600-bit/s packet store-and-forward satellite. UNAMSAT was assembled by students at the Universidad Nacional Autonoma de Mexico (UNAM) in Mexico City. In addition to packet store-and-forward operation at 1200 bits per second, UNAMSAT carried a unique "meteor radar" experiment.

AMSAT-NA President Bill Tynan (W3XO) expressed deep sorrow over this substantial loss to all of those who worked so hard to design and construct these spacecraft, and to the entire amateur satellite community worldwide. He said that he had sent e-mail messages of condolences to the appropriate parties.

In November, 1993 the first test launch of a converted SS-25 was successful, but with a lighter payload. Radio amateurs, particularly in Europe, had hoped that the Russian rockets could provide an inexpensive way to launch amateur radio satellites.

The Israelis will, apparently, rebuild and could have another unit ready in a matter of months but it is not known whether the Mexicans are able to do this. There was no insurance. *Thanks ARRL, 4X4AS, G3RWL, AMSAT-UK*

ARRL: FCC'S ENFORCEMENT EFFORTS "...DISMAL"

The American Radio Relay League has submitted lengthy ...and stern formal comments in response to the FCC's proposal to adopt a new Forfeiture Policy. The previous plan was invalidated by a federal court. CI Docket No. 95-6 seeks to incorporate new guidelines for assessing monetary fines. The ARRL was very critical of the Commission's past enforcement efforts. Here is an edited version of their submission:

Visible Enforcement Efforts Are Needed Now

The Commission's track record in the use of monetary forfeitures as a compliance measure in the Amateur Service (and in other services as well) has been dismal in recent years.

The Amateur Service is, and has for the past four

or five years been very much in need of some Commission assistance in a few specific, persistent enforcement cases. But almost no assistance has been forthcoming. We have received some promises of action to resolve these few cases, but here has been none, and the problems persist visibly.

The Amateur Service is justifiably proud of its ability to maintain a high level of voluntary rule compliance, and to keep its bands in order with very little expenditure of Commission resources.

What has absolutely not kept pace is the Commission's support of these self-enforcement activities. In any group of more than 650,000 individuals, there will inevitably be at least a small minority which are intentionally and repeatedly not rule compliant. In the Amateur Service, the damage caused by each of these few individuals is unfortunately extremely visible, due to the frequency sharing characteristic of amateur radio.

The perception in the minds of large numbers, perhaps the majority of active radio amateurs, due to the almost complete absence of any Commission enforcement presence is that the Commission is a "paper tiger" when it comes to enforcement of its own rules.

The practical result of the Commission's failure to enforce its rules in the Amateur Service is not only the continued presence of these problems, but worse, the encouragement to others to violate the same rules without fear of any penalty. Malicious interference problems, if left unchecked, tend to spread and increase in intensity.

One important element of the fine tradition of rule compliance in the Amateur Service is simply a respect for the Commission and its rules, and a love for the avocation. That is widespread. The other important element, however, is that sense of deterrence which is now lacking: the perception that if the rules are obviously violated, the Commission will step in and issue a collectable forfeiture, suspend a license, or revoke a license.

By specific written agreement with the Commission, the League sponsors the Amateur Auxiliary program, which both encourages voluntary rule compliance, and provides the Commission with a means of gathering evidence in cases in which a particular rule compliance problem cannot be resolved cooperatively. The Commission has not, however, used evidence gathered by participants in the program in difficult cases, however, despite its stated willingness to do so. The Commission has, quite literally, failed to keep its part of the agreement.

The result has been a demoralized group of volunteers in the Amateur Service whose many, often hundreds of hours of work on a single, persistent enforcement problem has been ignored by Commission field offices. This is an intolerable squandering of a valu-

able resource of volunteers. The League cannot long support the program if it continues to be ignored by the Commission.

Nor is the often-heard "lack of available resources" excuse reasonable under the circumstances: the League has conducted a four-year effort to promote enforcement action in fewer than five cases nationwide. It is well understood that the Commission's resources for enforcement of its rules are limited, and that public safety communications services and their associated field problems take priority in allocating these scarce resources. However, the Commission cannot, consistent with its obligations under the Communications Act, ignore any radio service's enforcement needs completely.

Forfeitures Are An Inefficient Enforcement Tool

The Commission has an extremely difficult procedural burden in forfeiture matters. The Commission can quickly assess a forfeiture in cases where such are justified by the circumstances. Indeed, in recent years, whether because administrative hearings are not required in forfeiture cases, or because of the Commission's traditional reluctance to revoke licenses, the issuance of forfeitures has significantly increased in certain radio services (other than the Amateur Service).

The tradeoff for the ability of the Commission to assess monetary forfeitures without administrative hearing, however, is that, pursuant to Section 504 of the Communications Act, the Commission has no ability to collect its own forfeitures. It issues the notices of apparent liability, and if the subject of the forfeiture does not respond or submit payment, the matter is referred to the Attorney General of the United States for collection...

If the subject of the forfeiture chooses to avail itself of the administrative appeals process after the initial forfeiture notice is issued, it has at least two, if not three, opportunities to appeal the issuance of the forfeiture or the amount thereof... Given typical timetables at the Commission, these forfeiture proceedings routinely take more than a year to simply resolve the appropriateness of the forfeiture, and the amount, as an administrative matter.

Even after the ample opportunities for administrative appeal of the forfeiture, the Commission is not free at that point to refer an uncollected forfeiture to the Attorney General of the United States for collection. There are required by Federal agency forfeiture collection procedures a series of "dunning letters" which take a significant amount of time to proceed through. These collection proceedings ...apparently involve the discretion of the offices of the United States Attorneys, and there does not appear a significant incentive for

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the institution of litigation to collect unpaid forfeitures.

The Commission is forced to choose its enforcement action carefully, because, by statute, the Commission is not permitted to utilize the fact of the assessment of forfeitures in any Commission proceeding to the prejudice of the person accused of the violation, unless and until the forfeiture is paid or finally adjudicated. There is thus a significant disincentive to pay the forfeiture if there is any likelihood of other, additional proceedings against the licensee. This disincentive is enhanced by the fact that the administrative procedures available for appealing the assessment of a forfeiture are so long and cumbersome that it is preferable to contest a forfeiture, and delay for extensive periods of time the administrative resolution of it, than it is to pay it.

Worst of all, however, is the widely held belief that it is highly unlikely that there will ever be a civil action instituted to collect the forfeiture. The perception is that the forfeiture amounts are too small, or the circumstances not sufficiently compelling, to justify the expenditure of the resources of the United States Attorneys, to collect the forfeitures. ...there is a widespread, and growing perception that administrative forfeitures are not collectible.

Some Solutions

What is necessary in order to improve the use of monetary forfeitures as an enforcement tool? There are several. The first, from the perspective of the instant proceeding, is that monetary forfeiture amounts should be established as standards, as the Commission has proposed, so that licensees know in advance that the cost of a particular action is significant, and that the Commission will indeed assess the amount if presented with sufficient evidence of the violation. The proper level of forfeiture is that which will cause a licensee not to repeat the rule violation, and at the same time serve to dissuade others from the same or similar behavior.

In the extremely few instances of issuance of forfeitures in the Amateur Service in the past five or six years, the amounts assessed, even for overt acts of malicious interference, have not been anywhere near the standard amounts for non-broadcast, non-common carrier violations set forth in the schedule. This leads the perpetrator to believe that even repeated rule violations in the Amateur Service are of little consequence and are taken lightly by the Commission.

In addition to establishing forfeiture amounts based on deterrence, rather than the likelihood of a licensee contesting the forfeiture, there are other elements of reform in the enforcement process that must be addressed right away. First of all, forfeitures, once assessed, must be followed up with collection efforts. While it is of course understood that the Commission

cannot collect the forfeitures itself, it cannot responsibly assess a forfeiture without some idea of whether the office of the United States Attorney responsible for collecting it will assist in collection of that particular forfeiture.

Second offense violations, or serious violations involving malice, such as malicious interference, should be addressed differently, through license suspension or revocation, rather than by a forfeiture.

Another solution, and one which would inevitably require legislation, is the establishment of a procedure for private contractual collection of administrative forfeitures through civil litigation on behalf of the Commission.

Finally, it is ironic that during the pendency of this proceeding, the Commission has just taken steps which signal a further deemphasis of its proper role as the source of enforcement of its own rules. It has offered buyouts to a large portion of its field office staff, among which number some of the most dedicated employees of the Commission. The automating of the Commission's monitoring stations, and the closing of some of the field offices, is easy to perceive as a signal that the Commission cannot be relied upon to enforce even the most basic rules of interference avoidance.

Conclusions

There have been only a few cases that require Commission assistance, but in those cases prompt enforcement action was needed badly and quickly, to maintain the atmosphere of deterrence that represents a cornerstone of the tradition of self-regulation in the Amateur Service, and, despite repeated promises, it was not forthcoming. The virtual absence of Commission enforcement efforts in the Amateur Service has resulted in a widespread view that the agency is a "paper tiger"; an image that must be dispelled without delay.

The issue is not whether the forfeitures will be paid voluntarily; there is a strong procedural disincentive to pay an administrative forfeiture, and an incentive to contest it. The issue is whether the standard amount of a forfeiture is sufficient to cause the rule violator to avoid the same behavior again, and at the same time, cause others who hear of it to avoid the same rule violation.

Prudent administration of forfeitures as but one of the enforcement tools available to the Commission is in order. They should not be issued unless it is determined that the forfeitures are collectible, so that the Commission's credibility is not drawn into question: when a forfeiture is assessed, the licensee should understand that it is likely that it will be collected.

(Filed 3/27/95, Chris Imlay, N3AKD, ARRL General Counsel)

AUG.-DEC. 1994 VE PROGRAM STATISTICS

This past week we received the VE testing statistics for the last five months of 1994. The percentages shown are the total share of the VEC testing "market." For example: In August 1994, 56% of all test sessions were conducted by the ARRL-VEC.

Testing Sessions:

Date	VEC	1992	1993	1994
Aug 94	ARRL	49.3%	51.1%	56.0%
	W5YI	35.6%	36.5%	33.1%
Sep 94	ARRL	50.6%	49.9%	58.6%
	W5YI	35.8%	37.3%	32.9%
Oct 94	ARRL	53.8%	52.2%	61.1%
	W5YI	32.9%	35.3%	29.7%
Nov 94	ARRL	43.7%	46.6%	57.8%
	W5YI	41.3%	34.9%	32.4%
Dec 94	ARRL	55.3%	56.7%	60.3%
	W5YI	31.9%	31.9%	30.5%

Elements Administered:

Date	VEC	1992	1993	1994
Aug 94	ARRL	53.2%	53.6%	57.8%
	W5YI	28.5%	29.1%	24.7%
Sep 94	ARRL	53.3%	51.4%	54.3%
	W5YI	28.1%	31.4%	26.6%
Oct 94	ARRL	58.4%	59.1%	64.7%
	W5YI	26.8%	25.5%	19.7%
Nov 94	ARRL	49.3%	56.7%	58.7%
	W5YI	32.3%	27.4%	27.1%
Dec 94	ARRL	57.3%	64.3%	64.7%
	W5YI	27.8%	22.9%	24.1%

Applicants Tested:

Date	VEC	1992	1993	1994
Aug 94	ARRL	52.6%	53.6%	59.8%
	W5YI	28.9%	29.0%	25.7%
Sep 94	ARRL	52.5%	51.2%	58.0%
	W5YI	29.3%	31.6%	27.1%
Oct 94	ARRL	58.1%	58.2%	63.3%
	W5YI	27.3%	26.8%	25.2%
Nov 94	ARRL	48.4%	55.4%	56.6%
	W5YI	33.5%	27.5%	29.4%
Dec 94	ARRL	56.8%	63.7%	54.9%
	W5YI	28.1%	23.4%	24.5%

Note: Although there are 18 VEC organizations, the two largest VEC's, (ARRL/W5YI) now account for:

90% of all amateur radio operator test sessions
85% of the exam elements administered, and;
87% of the applicants tested for ham tickets.

[Source: Personal Radio Division/FCC; Washington, D.C.]

Volunteer-Examiner Coordinator Report EXAMS ADMINISTERED UNDER VEC SYSTEM

Since its inception in 1984, volunteer examiners operating under the VEC System have administered 1,263,905 examination elements to more than 750 thousand persons at nearly 70,000 test sessions. The pass rate is about 65%. The average test session consists of about 10 applicants - each of whom take 1.7 examination elements. 99.7% of all applications and reports are filed properly. (About 3% are filed late.) VE testing increased by more than 60% in 1991 due to the inauguration of the Code-free Technician license. The increase (at a much lower level) continues to this day. Here is a run down since the beginning of VEC amateur operator self-testing:

DATE	SESSIONS	PERSONS	ELEMENTS	PASS
1984	413	8599	12633	47.5%
1985	3223	41439	62589	58.2%
1986	3784	42422	61921	59.7%
1987	4378	49728	81042	60.6%
1988	4903	53546	89788	61.0%
1989	5486	57417	96092	61.5%
1990	6250	64737	105763	60.8%
1991	8118	103251	172061	66.2%
1992	10016	115852	193521	65.6%
Jan 93	681	6432	10835	65.5%
Feb 93	723	8427	14366	65.9%
Mar 93	1045	12310	21240	65.7%
Apr 93	930	10996	18651	65.9%
May 93	1013	11735	20024	64.9%
Jun 93	1109	12378	21140	64.5%
Jul 93	924	8706	14484	64.6%
Aug 93	786	7236	12381	63.5%
Sep 93	905	8214	14085	64.7%
Oct 93	788	6888	11920	65.0%
Nov 93	1010	10140	17733	64.5%
Dec 93	934	9566	17052	64.5%
1993	10848	113028	193911	65.0%
Jan 94	848	7451	12909	64.5%
Feb 94	730	7406	12651	66.8%
Mar 94	1161	13171	22593	66.0%
Apr 94	1173	13035	22892	65.0%
May 94	968	10033	17631	65.9%
Jun 94	1105	11668	19878	63.6%
Jul 94	1135	9143	15553	64.9%
Aug 94	803	7419	13205	65.4%
Sep 94	848	7137	12501	65.1%
Oct 94	1010	8105	15199	64.9%
Nov 94	943	7667	15294	65.6%
Dec 94	914	4437	14278	64.7%
1994	11638	106670	194584	65.2%
TOTALS	69057	756689	1263905	61.0%

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• **ARRL says W5YI petition threatens W1AW.** (ARRL Bulletin 34, April 5, 1995, Newington, CT) A petition for rule making before the FCC would eliminate all one-way transmissions such as code practice and information bulletins on the amateur bands below 30 MHz, including those from W1AW.

The FCC has assigned file number RM-8626 to the petition, which was filed by Frederick O. Maia, W5YI, publisher of the commercial newsletter the W5YI Report. The petition seeks to eliminate the rules that permit one-way information bulletins and Morse code practice in the amateur bands below 30 MHz. The effect of the petition would be to silence W1AW bulletin and code practice transmissions, among others.

Maia calls the FCC rule that permits certain one-way transmissions on the amateur bands "a very permissive category and taken in its broadest context, permits just about anything to be transmitted that is even remotely associated with the Amateur Service."

Maia says that code practice is now available on computer software, and information bulletins about Amateur Radio can be had on various computer on-line services.

Comments on the petition may be sent in the form of a letter to the Secretary, FCC, Washington, DC 20554. The file number, RM-8626, should be shown prominently at the top. An original and five copies is preferred, but single copy comments will be accepted.

A copy should also be sent to Mr. Maia's lawyer, Raymond A. Kowalski, Keller and Heckman, 1001 G Street NW, Washington, DC 20001. The deadline for comments on the petition is May 4, 1995.

[Editor's note: Only information bulletins and code practice on HF frequencies, i.e. below 30 MHz, would be effected. Beacons, retransmissions and telemetry (which are covered by other rules) are not included. The objective of the petition is to preclude amateur stations from arbitrarily transmitting on top of ongoing two-way communications without first monitoring the frequency.]

• The FCC has denied a *Petition for Reconsideration* filed by Rolf Jespersen, N3LA of Spring City, PA. Jespersen asked in a November 1993 *Petition*

for Rulemaking (RM-8391) that the number of Amateur radio operator license classes be changed from six to three. Only two of which would require telegraphy proficiency.

The FCC said, "The petitioner's request that the Commission establish three classes of operator licenses is a request that asks the Commission to revisit several of its decisions regarding the structure, requirements, privileges and license classes of the Amateur Service."

"For example in 1951, the Commission established the basic operator class structure. In 1967, the Commission reduced the code speed for the Advanced Class operator license to 13 words-per-minute and decided to retain the Amateur Extra Class license."

"The nature of the amateur service was again examined in December 1983, when the Commission declined to establish a class of amateur operator license without a telegraphy requirement. The subject was revisited in 1990 when the Commission established an entry-level codeless class of operator license and the amateur community confirmed its preference to preserving telegraphy as an examination requirement for the remaining operator classes. The amateur service community in the United States considers the current telegraphy speed requirements as necessary and appropriate."

"The license class structure has not precluded growth in the amateur service," the FCC said. "In 1950, there were 87,696 licensees, now there are 668,258. Moreover, past delays in issuing licenses are being substantially removed by the volunteer-examiner coordinator system and the electronic filing of license applications."

The FCC denied Jespersen's *Petition for Reconsideration* since there were insufficient reasons "...to justify revisiting the issues concerning the number of amateur operator licenses and examination requirements at this time. (Order released April 4, 1995, Regina M. Keeney, Chief, Wireless Telecommunications Bureau.)

• Leonard M. Nathanson, W8RC of Farmington Hills, Michigan, has petitioned the FCC to re-apportion the sub-band assignments of the 7 megahertz amateur band.

Nathanson contends that undue interference and spectrum waste results in the 7.000 to 7.150 MHz segment since most of the world including Puerto Rico, the Virgin Islands and Canada are authorized phone operation in this portion of the band while U.S. amateurs are relegated to various digital modes below 7.150 MHz.

He also argues that short-wave broadcasters limit phone operation in the upper portion of the band during the evening.

W8RC asks for quick action on his request that U.S. amateurs be authorized telephony operation between 7.000 and 7.150 MHz. (*Petition filed March 31, 1995*)

• In January 1995, the FCC designated the Amateur Extra Class license renewal of Herb Schoenbohm, KV4FZ (Virgin Islands) for a hearing. At issue was whether his license renewal would serve the public interest. His character is being questioned since he has been convicted of a communications related felony. KV4FZ has now launched a counter legal fight to keep his license.

Schoenbohm, who characterizes the crime as "...a minor telephone billing dispute," was sentenced to two months home confinement. "Most of which I spent in the ham shack," he told us last week. The record, however, shows that KV4FZ was convicted of fraudulent use of telephone access numbers.

Schoenbohm believes that the FCC has targeted his license renewal due to complaints from the amateur community about his "...politically incorrect ...amateur radio activist" behavior. Many hams do not like his on-the-air criticisms which many feel has extended to intentional interference.

KV4FZ moved to have the matter dismissed ...or at least held in abeyance since he maintains he has been successful in essentially overturning the conviction and proving hams testified falsely against him at the trial.

He further alleges that the federal government was without jurisdiction to prosecute him and did not even charge a crime in the original indictment. In his motion for dismissal, KV4FZ raises the issue of double punishment and imposition of a penalty that was not in effect at the time of the crime (1987).

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Schoenbohm accuses the FCC of unjust and biased punishment. He argues that both the famous "Captain Midnight" (John R. MacDougall, KA4WJA, Ocala, FL) who jammed an HBO satellite in 1986 and Thomas M. Haynie (WB4PVK) of Virginia Beach, VA (who was convicted the following year of jamming sexually explicit commercial satellite downlinks) were both found guilty of communications related offenses. Both retained their ham tickets. And Schoenbohm says convicted "Super Hacker" Kevin Mitnick still holds N6NHG. (We checked the FCC's amateur data base and find that all three are currently listed - and assume that means they are indeed licensed.)

The Wireless Telecommunications Bureau, apparently not amused by Schoenbohm's self-styled Constitutional challenge, has now moved for a summary judgement. If granted, this action would preclude any hearing or further litigation and result in the immediate cancellation of KV4FZ's license without the right of appeal.

Schoenbohm, a former Virgin Islands police communications official and now an outspoken anti-big government talk show host, called the recent action by the FCC "bizarre." He added, "...bureaucrats face extinction. They are clearly in their last days."

● In our last issue we made the statement that **Glenn Baxter, K1MAN** filed a *Freedom of Information Act* request to learn about FCC handling of interference complaints against his bulletin service and the whereabouts of John B. Johnston. Johnston oversees personal radio for the FCC. Baxter's mail addressed to Johnston was sent back with the notation, "Return to Sender."

Baxter told us that the Bureau Chief (Regina M. Keeney) responded by denying any knowledge of the formal complaints sent to the FCC by the U.S. Attorney. We have since obtained a copy of Keeney's February 2nd FOIA request letter to Baxter and that is not entirely accurate.

It reads: "Your request 'all information regarding actions taken by Mr. Johnston and the Commission regarding the felony complaint affidavits in the Georgia 3.975 MHz interference matter.' The Commission has no records of this

description." She confirmed that Mr. Johnston was still employed in the Private Radio Division.

● **The Dayton Amateur Radio Association has announced their 1995 Ham-Venture Award Winners.** They are:

Amateur of the Year:

Rosalie White, WA1STO,

...exemplifies leadership for the educational side of amateur radio. As head of ARRL's Educational Activities Department, Rosalie has coordinated and hosted numerous workshops to motivate educators on the advantages of using amateur radio in their classrooms. As a member of the SAREX Working Group, she has created great interest in science and space flight among students. Also, Rosalie is an advisor to the ham radio Explorer Post in Newington, Connecticut.

Special Achievement:

Ed Briner, WA3TVG

Since 1979, Ed has participated in the visits of the "Flying Dentists" to Honduras, an activity which provides free dental care to the underprivileged children of that Central American country. Under the auspices of the *Medical Amateur Radio Council* (MARCO), Ed has helped provide emergency medical assistance to remote locations around the world. As Editor of the MARCO newsletter, Ed is key to assuring that MARCO members are informed, and motivated to continue their humanitarian activities. Ed hasn't neglected his own backyard, though. Southwest Pennsylvania amateurs know that he will help out local projects with needed equipment and his scarce personal time to get the job done.

Technical Assistance

Philip Ferrell, K7PF

...developed FingerPrinting as a method of identifying radio transmitters. This technique displays the turn-on transient of a transmitter for the first 200 milliseconds as it comes onto frequency. Since each transmitter comes onto frequency differently, due to both design and parts tolerances, this technique allows the identification of many interference sources. This technique has greatly enhanced the ability of amateurs and the FCC to locate problem transmitters. The process is now patented and being used commercially.

● **On March 23rd, K1MAN filed an "Objection to Petition for Rulemaking by W5YI" with the FCC.** He says:

1. Glenn Baxter, K1MAN "...has devoted a great deal of his life to large scale emergency communications efforts by organizing and operating the *International Amateur Radio Network*. IARN is not commercial in any way. Maia earns his living through amateur radio."

2. "ARRL gives no credit to IARN and needs an outlet and journal to express its views and to reach members and prospective members."

3. "There are a handful of amateurs who feel they own 3.975 MHz." Baxter says that he has made several attempts to cooperate and negotiate a resolution to the mutual interference problem. "All that is needed is for the FCC to do its job. A couple of \$300 fines would do the trick."

4. "The animosity is caused by the (wrong) perception that K1MAN bulletins are not legal."

5. "Information bulletins on HF are very efficient with thousands of listeners. The HF bands are under utilized."

6. "The incidental interference to ongoing communications by regular, scheduled bulletins is minor."

7. "Information bulletin stations are showing great innovation in welding together a very useful low, cost information dissemination system on HF..."

8. "Bulletins are not a problem. Petty amateur radio politics is the problem."

9. "HF bulletin information is disseminated for free and widely at minimum cost. On-line computer services and the Internet all cost money (and) are not amateur radio... HF bulletins are voice interviews, forums, speeches, editorials, talk programs; all very easy and efficient to produce. Mr. Maia should have his tongue cut out and carry a keyboard around his neck if he thinks otherwise."

(10.) "Mr. Maia is simply pulling a publicity stunt and/or trying to eliminate his competition to the *W5YI Report*."

(11.) "Banning HF bulletins is an attempt to suppress free speech of K1MAN and Maia would like to slam ARRL at the same time. (Both) are in direct commercial competition."

(12.) Glenn Baxter, K1MAN "...requests that Maia's Petition to change the rules be dismissed."

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AMATEUR RADIO CALL SIGNS

...issued as of the first of April 1995

Radio District	Gp. "A" <i>Extra</i>	Gp. "B" <i>Advan.</i>	Gp. "C" <i>Tech/Gen</i>	Gp. "D" <i>Novice</i>
0 (*)	AA0WZ	KG0VF	(***)	KB0RVU
1 (*)	AA1MX	KE1AZ	N1USY	KB1BOI
2 (*)	AA2WW	KG2CB	(***)	KB2UCB
3 (*)	AA3LD	KE3SJ	N3UXM	KB3BHC
4 (*)	AE4GC	KS4TL	(***)	KE4YMF
5 (*)	AC5BV	KK5NB	(***)	KC5NRI
6 (*)	AC6LV	KO6TA	(***)	KE6SNC
7 (*)	AB7JE	KJ7MD	(***)	KC7JYT
8 (*)	AA8TA	KG8QJ	(***)	KB8YQE
9 (*)	AA9OC	KG9BH	(***)	KB9JVL
N. Mariana Is.	KH0Q	AH0AV	KH0DW	WH0ABC
Guam	WH2M	AH2CZ	KH2NM	WH2ANG
Johnston Is.	AH3D	AH3AD	KH3AG	WH3AAG
Midway Is.		AH4AA	KH4AG	WH4AAH
Hawaii	(**)	AH6QB	(***)	WH6CUD
Kure Is.			KH7AA	
Amer. Samoa	AH8N	AH8AH	KH8CG	WH8ABB
Wake W. Peale	AH9C	AH9AD	KH9AE	WH9AAI
Alaska	(**)	AL7PZ	(***)	WL7CLX
Virgin Is.	WP2R	KP2CD	NP2IA	WP2AHV
Puerto Rico	(**)	KP4ZC	(***)	WP4MWU

* = All 2-by-1 "W" prefixed call signs assigned.

** = All Group A (2-by-1) call signs assigned.

*** = All Group "C" (N-by-3) call signs assigned.

[Source: FCC, Gettysburg, Pennsylvania]

REPLY COMMENTS - ALLOCATION OF SPECTRUM BELOW 5 GHZ - Transferred from Government Use

The Radio Amateur Satellite Corporation, and the American Radio Relay League have filed reply comments on ET Docket 94-32 which proposes certain rules governing transfer of government spectrum to private use. AMSAT, ARRL, Apple and Compaq Computer agreed with most commenters that no additional "formal sharing arrangements" are needed to protect data-PCS - unlicensed wireless computer networking.

AMSAT said "...there is a good deal of compatibility between asynchronous data-PCS and amateur operations in the 2390-2400 MHz band." It agreed with Compaq that conflicts could arise only when amateur and data-PCS devices are operating at the same time in close proximity which would be the exception. AMSAT concurred that any problem should be addressed "...on a cooperative, case-by-case basis."

AMSAT strongly disagreed with (1.) Motorola's contention that unlicensed Part 15 devices should be elevated to co-primary with the Amateur service, and; (2.) AT&T's request for additional study before making a decision on spectrum sharing rules. AMSAT said that if it is concluded that unlicensed Part 15 devices cannot share spectrum with amateurs, then the FCC

should "...limit all new Part 15 devices designed to operate in this part of the spectrum, to 2450-2483.5 MHz."

ARRL's comments pretty much echoed those of AMSAT. It repeated its belief that "...the Commission should allocate the 2300-2310 MHz band to the Amateur service on a primary basis; and it should allocate the additional segments of 2400-2402 MHz and 2417-2450 MHz (or up to 2483.5 MHz) to the Amateur service on a primary basis as well." ARRL said it was pleased with the comments of two research organizations for their recognition of the Amateur service as "...a cooperative spectrum neighbor" to sensitive radio astronomy operations located at 2370-2390 MHz.

Mike Cheponis, K3PC said the FCC should ignore the comments of the Northern Amateur Relay Council of California, Inc., and the Northern California Packet Association because they "...evidently were unaware of the stringent 'etiquette' to which data-PCS devices must conform. Their fears about data-PCS interfering with Amateur operations are illusory." Concerning AT&T's comments, K3PC said "...it just doesn't ring true." Calling the need for additional data a "delaying tactic," he said amateurs are "...not willing to deal with the paralysis of analysis." (Reply comments filed on April 4, 1995.)

● On April 3rd, the FCC's Tampa field office located a hoax caller who used Marine Channel 16 to transmit false distress calls to the Coast Guard in St. Petersburg, FL. Using close-in direction finding techniques, the FCC found a 12 year-old boy calling from his father's boat which was on a trailer in their yard. There was no FCC license for the radio on board the vessel.

Transmitting a false distress message carries a maximum penalty of six years imprisonment, a \$5,000 fine and liability for all costs the Coast Guard incurs as a result of the individual's actions. The fact that the vessel was unlicensed may subject the operator and owner to an additional fine of up to \$10,000 and one year in prison or both.

● A New York appellate court decision may be valuable for amateurs who are contesting local laws prohibiting new transmitting antennas because of feared health hazards from exposure. Cellular One (a cellular phone company) protested the Village of Tarrytown's "Temporary Moratorium on Installation of Antennas" which was based on the perception of RF as a health hazard. The court observed, "...there is not a scintilla of evidence" that cellular antennas are contrary to the well-being of the village's citizenry. "Rather, the overwhelming and unrefuted medical and scientific evidence is to the contrary. ...Similarly, the dearth of studies regarding long-term effects of exposure to radio frequency emission fails to justify the adoption of the moratorium." (Thanks, Leo Zucker, K2LZ.)

W5YI INTERVIEW WITH FRANK TERRANELLA, N2IGO

Attorney Frank Terranella, N2IGO is the author of the popular Listener's Lawbook, published by Grove Enterprises (\$9.95 plus shipping, 800-438-8155). First published in 1991, the book quickly became the standard reference to U.S. laws that affect possession and use of radio receivers. Grove is about to release the new 1995 edition of the Listener's Lawbook.

N2IGO is an articulate advocate for rational communications laws and a legal advisor to the *Association of North American Radio Clubs* (ANARC). In fact, a portion of the revenues from sales of the book will be donated to ANARC.

Frank was instrumental in rewriting legislation in New Jersey. That state previously had one of the most draconian anti-reception laws in the nation. In his professional life, Frank is General Counsel for an international expositions producer. We caught up with him in Washington D.C., and asked him about the new edition and recent changes in U.S. monitoring laws.

W5YI: What are some of the improvements in the new Listener's Lawbook?

N2IGO: We have added new material on the banning of radios that can pick up cellular transmissions. We put in a chart that characterizes the monitoring laws in all states. If there is no such law in effect in a state, the chart shows that also.

We include the FCC Report & Order about federal preemption of state and local monitoring laws. The Commission preempted those laws for amateurs. State and local laws cannot prohibit radio amateurs from monitoring.

W5YI: Do people need to be concerned about having to surrender their radios to police?

N2IGO: In states where there are monitoring laws, a good number of states, people do need to be concerned about being stopped because police know that those laws are on the books and they are anxious to enforce them.

Police do not like the idea of people listening to their communications. The best way to get around it in many states is just to go out and get an Amateur Radio license. It is a sorry commentary on our society that you have to get a ham license just to be able to carry a scanner, but many people have done that. Get a no-code license, and you have not only a license to transmit, but a license to listen, in many states.

W5YI: What is your approach to legislators?

N2IGO: I ask them, what is the public interest in someone listening to radio? If they can show public harm, I would be willing to craft a statute for them that would address that particular harm.

That is what we did in New Jersey. New Jersey's statute in 1991 made the mere possession in a car of a radio capable of picking up police communications a misdemeanor.

The state Attorney General told us that the statute must stop people from using the radio in the commission of a

crime. So we said, let's write a statute that concerns commission of a crime, rather than a statute that says the mere possession of a radio in a car is a crime.

That law was repealed due to the efforts of many people. The law that replaced it defines an offense based on the misuse of information heard on a scanner. It involves intent to commit a crime; it's no longer a possession offense.

Kentucky has a similar law as New Jersey's former law. Kentucky changed their statute to write an exemption from the law for radio amateurs. A number of states deal with the monitoring law like that.

W5YI: What has happened to the ECPA lately?

N2IGO: An important change was that the ECPA no longer exempts cordless telephones from its prohibitions. It is now as illegal to intentionally intercept a cordless phone transmission as it is to intentionally intercept a cellular telephone transmission.

Congress also made changes in the ECPA's wording that unfortunately carries major repercussions. They changed the definition of "readily accessible to the public" to exclude any electronic communication. "Electronic communication" includes all radio communication. So, under the new definition, *all* radio communications are deemed to be *not* "readily accessible to the public." Therefore, they cannot be monitored, unless there is a specific exemption for them in the ECPA.

There are some exemptions such as CB, broadcasting, Amateur Radio, GMRS, police and fire. But unless you see something in the ECPA that says you can listen, you can't.

W5YI: What is the status of cases that have been brought under ECPA?

N2IGO: I'm not aware of any that have actually gone to trial. I keep waiting for a big ECPA case to come along, and they just don't. I don't think that federal prosecutors are interested in prosecuting ECPA violations. Unless they gain some notoriety in that the people involved are public figures, I don't see it happening that the U.S. Attorney's office starts targeting radio hobbyists.

W5YI: Are these laws necessary?

N2IGO: Unenforceable laws like ECPA serve no public purpose. I think it's a waste of taxpayers' money because the FCC has to gear up for enforcing it and the U.S. Attorney has to consider it. If someone is monitoring a cellular signal in the privacy of their home, no one is ever going to know about it, unless the FCC is peeking in your window.

Even if the FCC is peeking in your window, it would be difficult for them to show that you were *intentionally intercepting* a cellular or a cordless telephone, which is the standard that must be met. Intent is a very tough standard. You would have to set out and say, "I'm going to try to listen to Mr. X's telephone call." You would have to search around the bands to try to find Mr. X.

If you find the person you're looking for, then you have violated the ECPA. If you're just tuning around the 800 MHz bands, and you come across a cellular telephone conversation, I defy the FCC or anyone else to tell me that I've intentionally intercepted it.